

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

3 DARNELL SMITH, et al.,) Docket No. 15 C 3467
4)
5 Plaintiffs,)
6)
7 vs.)
8)
9 THE CITY OF CHICAGO, et al.,) Chicago, Illinois
10) December 6, 2016
11 Defendants.) 9:03 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - STATUS
BEFORE THE HONORABLE AMY J. ST. EVE

APPEARANCES:

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PROCEEDINGS RECORDED BY
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1 THE CLERK: 15 C 3467, Smith vs. City of Chicago.

2 MR. HART: Good morning, your Honor, Steven Hart on
3 behalf of plaintiff class.

4 MR. POZAN: Good morning, your Honor, Kyle Pozan on
5 behalf of the plaintiff class.

6 MR. GOULD: Good morning, your Honor, Marty Gould on
7 behalf of the plaintiff class.

8 MR. SHEEHAN: Good morning, your Honor, Mike Sheehan
9 on behalf of the defendants.

10 MR. WEINTHAL: Brian Weinthal also on behalf of
11 defendants, your Honor.

12 THE COURT: Good morning.

13 You are here for status. What is the status?

14 MR. HART: We are, your Honor. So, you'll recall
15 that we had a very lengthy hearing last time we were before
16 your Honor and hashed out most of the outline for conducting
17 discovery. I think the good news is the parties are really
18 working together cooperatively and exhaustively to move this
19 case along.

20 There's a couple different areas. I'll start with
21 oral discovery.

22 We suggested to your Honor that we would attempt to
23 schedule some plaintiffs' depositions and take either some
24 defendants' depositions -- to set some parameters for further
25 written -- or non-parties that were associated with the police

1 department.

2 Next week we have three depositions proceeding of
3 plaintiffs. There are subpoenas out for non-party former
4 police officers. We're trying to confirm those who have been
5 served. We expect to take several either specific defendant
6 or City officials and/or non-party former City officials
7 before the end of the year. And we'll certainly have several
8 of the plaintiffs taken, because three are set next week and
9 we expect that to continue.

10 I think the most challenging aspect of where we are
11 in discovery is e-discovery. And the good news is we have
12 people that know what they're talking about on both sides
13 making progress to do this. It's highly complicated. Right
14 now we're on iterative search terms, okay? So, we've agreed
15 on most of what we need to do. We know the corpus. We know
16 who we're searching, for the most part. And now the devil's
17 in the details with respect to the search strings, if you
18 will.

19 I believe we're real close to finalizing those terms.
20 There's one or two terms that are outstanding. And I think
21 we're going to reach agreement on that. So, that process is
22 well under way, as well.

23 What has to happen next, obviously, is searches have
24 to be done.

25 THE COURT: Right.

1 MR. HART: The City's got to review them --

2 THE COURT: Production. Right.

3 MR. HART: -- for privilege and stuff. So, the 9th
4 doesn't look like it's going to be doable.

5 But I would suggest to the Court that the last three
6 months have gone from massive disagreement to mild
7 disagreement, to agreement, to execution. So, now we're in
8 the execution phase. And I think we would respectfully
9 suggest to the Court that if your Honor would be willing to
10 monitor it on a monthly basis, bring us back sometime in
11 mid-January, then we would report on our progress.

12 What I personally would like to see completed by at
13 least our next status hearing is a real robust iterative
14 process on ESI discovery where the City has run the search
15 strings; they can tell us what appears to be effective and not
16 effective; we can have an exchange and move from there.

17 I will also say candidly that the City just provided
18 us with additional documents, I think, yesterday -- I believe
19 yesterday -- on some manuals, on some just straight written
20 discovery issues. So, we're making progress on that, as well.

21 I think at this point we all share a desire to move
22 as quickly as we can and we want to do that.

23 THE COURT: Do you agree with those representations?

24 MR. SHEEHAN: I agree with all of them. The only
25 correction I would make would be the plaintiffs' depositions

1 aren't next week. They're the week after, just so the record
2 is clear on that.

3 And, then, it's -- the City is working very hard on
4 compiling the ESI information. As I told counsel this
5 morning, on Friday we received an additional 30 gigabytes of
6 information. What that translates exactly into, I'm not
7 qualified to tell you. I can tell you it will be several
8 hundreds of thousands of e-mails.

9 And it sounds like -- I'm not part of the discussion
10 on getting those search strings together; but, as counsel
11 said, they're very close to getting done. Once we have that,
12 we have over 70 gigabytes of information in-house already that
13 we'll be able to start running the search strings against.

14 And I know the CPD -- we put in a request for the
15 custodians, and they are working on drawing down and exporting
16 that information to us.

17 So, we're working hard. It's just a massive amount
18 of information on the ESI front, as well as the, you know,
19 paper front. But we're going to be starting depositions, and
20 that will be a good transition in the case, in my opinion.

21 THE COURT: What is the status of Judge Keys' report
22 in the ACLU case?

23 MR. SHEEHAN: The status is the City is still waiting
24 for the draft report. He has advised us that he is hopeful
25 within the next month to have it completed. It is also, I

1 guess, taking him more time than he anticipated.

2 THE COURT: Do you expect getting it before the
3 holidays?

4 MR. SHEEHAN: I am not sure.

5 THE COURT: I know that was the original expectation.

6 MR. SHEEHAN: That was the original expectation. I'm
7 not sure at this point.

8 THE COURT: Okay.

9 And once you get a draft report, if the parties are
10 comfortable sharing that with the Court --

11 MR. SHEEHAN: Yeah. Judge Keys --

12 THE COURT: -- that might be helpful.

13 MR. SHEEHAN: Judge Keys has expressed some
14 reservations of sharing the draft report prior to the final
15 report being issued by him.

16 THE COURT: Okay.

17 MR. SHEEHAN: We can have a conversation with
18 plaintiffs if they have an issue with that -- waiting till the
19 final report. Ultimately, it will be discoverable. There's
20 no -- but he --

21 THE COURT: Right, right.

22 MR. SHEEHAN: -- has a concern about others
23 potentially --

24 THE COURT: I understand.

25 MR. SHEEHAN: -- interjecting themselves in this

1 process.

2 MR. HART: And we get that. We're enthusiastic about
3 the Court reviewing that report. We're interested to review
4 that report, as well. We don't think it's dispositive, but
5 it's going to be interesting.

6 And what I think we should do, I would suggest to the
7 Court, is provide you with another status report -- a written
8 status report -- bullet pointing where we're at before our
9 next status conference, maybe -- whatever your Honor would
10 like, three days, two days, before our next status conference,
11 which we would ask to have in the second or third week of
12 January.

13 THE COURT: We will get there.

14 Do you know from Judge Keys what the anticipated
15 timing is from the time of the issuance of the draft report to
16 the final report?

17 MR. SHEEHAN: That's 30 days by agreement.

18 THE COURT: Okay. Well, we can take that up.

19 My preference for status so that you can have the
20 sufficient amount of time that you need is to do one on
21 January 6th. It is a Friday. I start a string of trials
22 after that. If you need an hour, I want to be able to give
23 you an hour. So, January 6th at 9:00 a.m.

24 Does that work okay?

25 MR. SHEEHAN: One second, your Honor.

1 It does for me.

2 THE COURT: Then the status report by January 4th is
3 fine.

4 Anything else this morning?

5 MR. HART: That's it, your Honor.

6 MR. SHEEHAN: No, your Honor.

7 THE COURT: Thank you.

8 MR. SHEEHAN: Happy holidays.

9 THE COURT: Thank you. You, too.

10 * * * * *

11
12 I certify that the foregoing is a correct transcript from the
13 record of proceedings in the above-entitled matter.

14
15 /s/ Joseph Rickhoff
16 Official Court Reporter

17 May 2, 2017

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